

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

RODOLFO MARTINEZ,

Plaintiff,

v.

TEXAS WORKFORCE COMMISSION,

Defendant.

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1:17-CV-681-RP

**ORDER**

Before the Court is the above-entitled action. On this day, the Court considered Plaintiff Rodolfo Martinez's ("Plaintiff") Request for Certificate of Default. (Dkt. 3).

In an affidavit filed alongside the instant motion, Plaintiff alleges that the Texas Workforce Commission Civil Rights Division ("Defendant") failed to answer or otherwise respond to Plaintiff's complaint within the prescribed period. (Martinez Aff., Dkt. 4, at 1). As Defendant notes and the record reflects, Plaintiff has failed to properly execute service of process. Although Plaintiff filed an Affidavit of Service by Mike Techow, an employee of Austin Process LLC who alleges that he "deliver[ed] a true copy of the Plaintiff's Original Complaint" to an authorized agent of Defendant, (Techow Aff., Dkt. 3, at 1), the Federal Rules of Civil Procedure require that a summons be served with a copy of the complaint. Fed. R. Civ. P. 4(c)(1). Plaintiff never requested a summons from the Clerk of Court. Plaintiff's Request for Certificate of Default, (Dkt. 3), is therefore **DENIED**.

**SIGNED** January 8, 2018.



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ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE